

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
The Use of N11 Codes and Other)	CC Docket No. 92-105
Abbreviated Dialing Arrangements)	

COMMENTS OF QWEST COMMUNICATIONS, INC.

QWEST COMMUNICATIONS, INC.

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SUMMARY

Qwest supports the NANC¹ recommendation that the N11 811 be established as the nationwide toll-free three-digit telephone number for One Call information systems, in line with Congress' mandate on the matter. It is in the best interests of the telecommunications and excavation industries, as well as the public, that the Commission adopt a three-digit code that can be deployed within a reasonable time and with acceptable costs. The only proposal that meets those objectives is 811. No variation of 344 can meet this goal.

As part of the resolution of this proceeding, in addition to adopting the 811 code, Qwest urges the Commission to delegate to the states the task of determining when a One Call Center is a *bona fide* operation eligible to receive abbreviated dialing service. Additional delegated authority should be granted to state commissions to act as mediator in those circumstances where there is customer contention for 811 services, which will occur when there are multiple Call Centers in the same geographic area or where areas may overlap. Common carriers should not be charged with the responsibility for assessing whether a One Call business should be permitted to purchase N11 services. Nor should such carriers have to resolve conflicting customer requests for service in common serving areas. Both tasks are better managed by state regulatory authorities.

The Commission should also make clear in its final *Order* that carriers are permitted – and expected – to recover their costs of providing “three-digit” services to One Call Centers. The Commission should proclaim that carriers are not only entitled to recover the costs of their network implementation of the service but also ongoing costs associated with providing the service. Such cost recovery model should also include a reasonable return on investment.

¹ All abbreviations or acronyms used in this Summary are identified more fully in the text.

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Qwest Communications, Inc. (“Qwest”) submits these comments in response to the *Notice of Proposed Rulemaking*¹ issued by the Federal Communications Commission (“Commission”) in this proceeding. Qwest supports the North American Numbering Council’s (“NANC”) recommendation that 811 be established as the nationwide toll-free three-digit telephone number for One Call information systems.

I. THE DESIGNATION OF 811 FOR CALLERS TO RECEIVE ONE CALL DIGGING INFORMATION IS PREFERABLE TO ANY VARIATION OF 344

The Commission describes One Call notification systems as “communication system[s] established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities.”² As a result of Congressional action taken in 2002, the Commission, in conjunction with other federal agencies and interested parties, is required to declare a three-digit, toll-free number to be used to direct callers to One Call notification systems. Beyond this specific mandate, the particulars are left up to the Commission. After careful study of the matter and the examination of a number of alternatives, Qwest supports the

¹ *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, *Notice of Proposed Rulemaking*, FCC 04-111, rel. May 14, 2004 (“NPRM”).

² *Id.* ¶ 1.

recommendation of the NANC Issues Management Group (“IMG”), a group specifically created to analyze this matter, that the N11 code 811 be utilized to meet the legislative mandate.

A. Numbering Resource Management Analysis Supports The Utilization Of 811

Congress’ passage of the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985 (2002)) (“*2002 Pipeline Act*”) created the impetus to establish a three-digit dialing pattern to contact One Call Centers. In the *2002 Pipeline Act* Congress directed the Commission, in concert with the Secretary of Transportation and other interested parties, to establish a “3-digit nationwide toll-free telephone number . . . to be used by State one-call notification systems.” These systems or calling centers allow persons who are excavating near utility rights-of-ways to learn the location of buried utility systems.

Qwest participated in the NANC IMG that analyzed the Congressional mandate within the context of number administration resources, number optimization, and overall carrier deployment. After thorough investigation and analysis, the IMG recommended using the N11 code 811 to satisfy the statutory requirement imposed on the Commission. In turn, the NANC adopted the recommendation of the IMG and so advised the Commission.³ The Commission should adopt the NANC recommendation. It creates the framework for the most expeditious and cost effective mechanism to meet Congress’ One Call objective.

That objective cannot begin to be met, however, until the Commission makes its final decision in this proceeding. Until then, carriers will not begin necessary deployment or implementation activities. Once begun, an optimistic view of an 811 dialing deployment

³ See Letter to Mr. William Maher, Chief, Wireline Competition Bureau, Federal Communications Commission, from Robert C. Atkinson, NANC Chair, dated Dec. 4, 2003 (“NANC Atkinson Letter”).

schedule would involve a year, a pessimistic view two years.⁴ Regardless of one's viewpoint, however, there will be variations among carriers that will affect deployment schedules. Given Qwest's network architecture, for example, we believe we could deploy an 811 dialing pattern within a year with little difficulty. This is far earlier than we could think of deploying any variation of a 344 dialing pattern.

B. No Variation Of 344 Dialing Meets A Sound Cost-Benefit Analysis

While this proceeding will reflect widespread support for establishing 811 as the One Call dialing mechanism, there will be detractors. For some time it has been clear that there are those constituents who favor some form of 344 dialing pattern to accomplish the statutory mandate. Their positions are founded on two factors: (1) 344 can be "translated" into the word "DIG;" and (2) over the past few years #344 has begun to be utilized within the wireless industry as a One Call dialing pattern.⁵

These purported advantages of a 344 numbering scheme are not so substantial that the Commission should dedicate a potential Numbering Plan Area ("NPA"), with its associated eight million telephone numbers, for the limited purpose of creating a three-digit toll free number for One Call Centers. First, the general population will not be calling One Call systems. Any associational value of 344 and the word DIG, will be limited to a particular type of call – those

⁴ See *Abbreviated Dialing for One Call Notification*, NANC, *Report and Recommendation of the Abbreviated Dialing For One Call Notification Issue Management Group*, Oct. 29, 2003, at 11 ("IMG Report"), attached to the NANC Atkinson Letter (noting that carriers predicted deployment timelines of between a few months, where deployment was confined to a single area and carrier resources were available, to one year).

⁵ The 344 dialing pattern is an Easily Recognized Code ("ERC") because the second and third digit are the same. *NPRM* ¶ 17. When preceded by a star (*), the dialing pattern becomes a Vertical Service Code ("VSC").

wanting to excavate.⁶ While it may be true that, in some cases, there is an associational value having a number that can be converted into words (a phenomena that has become well-established in the 8xx number environment, for example), both the existence and the value of such an association sharply diminishes as the number of persons expected to call the number becomes smaller and the context of the call more circumscribed. That is certainly the case in the situation of One Call types of calls. This limited “calling circle” does not warrant the dedication of an entire NPA to manage the business of excavation and associated risks. Moreover, no matter what the dialing pattern ultimately is for the One Call deployment, the three-digit dialing pattern will be heavily promoted. Second, the penalties associated with a failure to use an available One Call system,⁷ no matter what the three-digit dialing pattern might be, should create an environment where moving from a mnemonic dialing pattern to an N11 pattern should be easily achievable. In light of these factors, converting an NPA to a three-digit dialing pattern for the limited purpose of One Call excavation information is not in the public interest.

It is true, of course, that the wireless industry has been developing a #344 dialing pattern over the past few years for One Call excavation information purposes. Yet any attempt to extend this dialing pattern into the wireline world would be extremely costly. As the *IMG Report* notes, “[t]he N11 architecture is an established abbreviated dialing plan, recognized by both switch manufacturers and the public at large. As such, use of 811 will have less impact on customer

⁶ For example, while the National Telecommunications Damage Prevention Council (“NTDPC”) has urged the continuation of some form of 344 dialing, in part based on its concern about re-education processes for its users, it also notes that the users of this dialing pattern are generally confined to “excavator associations.” See Letter from Michael D. McCrary, Chair, NTDPC to IMG Group, dated July 18, 2003, attached to the *IMG Report* at 18.

⁷ See Petition for Rulemaking of the United States Department of Transportation, CC Docket No. 92-105, at 13, n.15 (referencing 49 U.S.C. § 60123(d)), filed Aug. 29, 2003 (“*DOT Petition*”).

dialing patterns, and can be implemented without the substantial cost and delay of switch development required with an alternative like #344” or other similar alternative.⁸

In contrast to a fairly routine deployment of an 811 dialing pattern, a deployment of any type of 344 dialing pattern would be costly and take considerable time – years even. A range of in-use, wireline switches would be impacted by such a decision with some of the switches most likely having to be retired and replaced, perhaps prematurely.

Not only unwarranted costs but unwarranted delays would be associated with any 344 deployment. According to the *IMG Report*, there would be a one-to-three year delay simply for the development and installation of the necessary switch generics to be released and installed. **Only then** would a carrier’s network deployment begin to activate the switch features required to implement a 344 dialing pattern.⁹ Since Congress passed the *Pipeline Act* in 2002, it is likely that it expected implementation of its mandate before 2006 or 2007. An 811 dialing pattern will allow for a speedier implementation.¹⁰

The *IMG Report* clearly and persuasively makes the case that a three-digit number preceded by a # sign or a * character is not economically feasible as a means to accomplish Congress’ objective with respect to calls to One Call Centers. That *Report* correctly observes that with respect to a # dialing sequence “[c]onsiderable standards and development would be necessary to implement this type of dialing arrangement.”¹¹ A * access code deployment raises similar problems with respect to a large number of carrier network architectures and customer equipment.

⁸ *IMG Report* at 3, 10-11.

⁹ *Id.* at 8-9, 11.

¹⁰ See discussion above at note 4.

¹¹ *IMG Report* at 6.

Given that “the use of access codes involving the Star or Number Sign is inconsistent with existing numbering plan definitions, and use of these characters would be difficult to implement in most wireline architectures,”¹² it is obvious that deploying a dialing pattern of either type would involve substantial development work and expense for the telecommunications industry.¹³ Customers, as well, would be targets of increased costs. For some customers, a regulatory decision to deploy a dialing pattern involving either a * or a # would require an early (unplanned for) retirement of their existing equipment. For other customers currently using either sign to trigger internal equipment features, they would be burdened by retrofitting challenges and costs.¹⁴ For these reasons, the Commission should decline to adopt any form of 344 dialing pattern and should adopt 811 as the mechanism to meet the Congressional mandate.

II. THE COMMISSION MUST DESIGNATE “THE CUSTOMER” FOR THE ONE CALL N11 SERVICE AND DELEGATE TO THE STATES AUTHORITY TO CONFIRM THE CUSTOMER IS A *BONA FIDE* ONE CALL DIG PROVIDER AND SHOULD BE THE CARRIER’S N11 CUSTOMER

The general expectation associated with an N11 811 One Call service is that “the One Call Centers would be the customers of the [local exchange carriers] LECs providing the service.”¹⁵ The Commission describes One Call notification systems as “communication system[s] established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities.”¹⁶ These types of One Call Centers are – as the

¹² *Id.* at 7.

¹³ To be sure, wireless carriers are free to continue processing #344 calls for One Call purposes if they desire.

¹⁴ *IMG Report* at 8.

¹⁵ *Id.* at 12.

¹⁶ *NPRM* ¶ 1.

quoted phrase indicates – sometimes established or endorsed by a state in its “official” capacity. But this is not always the case.¹⁷ Sometimes the One Call Center is simply a private enterprise that has managed to develop a sort of *de facto* endorsement from state and municipal governments as a result of the government’s referral practices. In the latter case, particularly, the “*bona fides*” of the business operation as a legitimate One Call Center for purposes of purchasing 811 service might be questionable, especially if there are competing businesses wanting the service.

For these reasons, the Commission must address how a carrier will know that an applicant One Call Center is a *bona fide* operation. Additionally, it should address how matters of customer contention for 811 services should be handled and resolved. Qwest recommends that the state regulatory commissions be delegated authority to resolve these matters.

¹⁷ Whether formally or informally, the states have not been idle bystanders with respect to the matter of One Call Centers. In 1996, the DOT Research and Special Programs Administration (“RSPA”) Office of Pipeline Safety (“OPS”) organized a stakeholders group to develop a national damage prevention education campaign. This group came to be called the Damage Prevention Quality Action Team (“DAMQAT”). It was comprised of natural gas and liquid transmission pipeline systems, large and small natural gas distribution operators, state and federal regulatory agencies, professional excavators, one call systems, the insurance industry and the telecommunications industry. Among the represented stakeholders was the National Association of Regulatory Utility Commissioners (“NARUC”). DAMQAT assessed the status of damage prevention programs and effectiveness, and identified additional opportunities that could lead to a reduction in excavation damage.

As the *NPRM* notes, work in the area of One Call notification centers was bolstered by Congressional activity dating back to 1998. *NPRM* ¶ 3 n.9 (noting that grants have been made available to states to establish or improve One Call notification systems). *And see DOT Petition* at 2-6. As a part of that activity, the OPS sponsored a *Common Ground Study* that identified and evaluated over 100 Best Practices in underground facility damage prevention. *See Common Ground Study of One Call Systems and Damage Prevention Best Practices*, referenced in *DOT Petition* at 5-6. Building on that Study, a nonprofit organization called the Common Ground Alliance was formed. That Alliance was responsible for launching the Dig Safely© program beginning in 1999.

A. Identifying The Appropriate Customer For 811 Service

The Commission should consider whether the One Call Centers identified in the oft-cited www.digsafely.com/contactlist.htm web site are “automatically” appropriate customers for this service, meaning that a request from any of these Centers would require provisioning of the service to that identified entity (assuming no additional issue regarding customer contention for the services, addressed below). Qwest is not particularly comfortable with this kind of “customer designation” without a thorough investigation regarding what is required of a business to be listed on the above-referenced URL, but the Commission should at least speak to the question.

Assuming the Commission decides that there will be no “automatic customer designation” associated with the URL, it should adopt a process whereby, under delegated authority, the states are to review the *bona fides* of any business claiming to be a One Call Center to determine that it is an appropriate applicant for 811 service.

Qwest is concerned (based on its experiences with 211 and 511 service) that *any business* can call itself a “One Call” business, creating a carrier obligation to provide that business with abbreviated dialing service, even if the “one call” aspect of the operation is only incidental or sporadic to the business’ fundamental business purposes and operations. Yet Qwest *does not want*, as a common carrier, to be the entity making the decision about the propriety of assigning an abbreviated dialing arrangement to such a business. That is not the role for a common carrier providing telecommunications services to assume. But public health and safety require some notion of “quality assurance” be instilled in the application process beyond the mere representation of a business claiming to be a One Call Center. For this reason, the state should determine the “*bona fides*” of the service request.

Qwest is not suggesting any formal state “imprimatur” or certification. Rather, we would expect a structure or process by which an entity requesting service could demonstrate, at least on a *prima facie* basis, that it was a One Call Center suitable for receiving the abbreviated dialing services. This would rule out those purported “call centers” that are “open for business” only between the hours of 2 a.m. and 4 a.m. weekdays, for example. The specifics of this “quality assurance” aspect of providing abbreviated dialing service would be a matter left to the states, carriers, and other interested parties to develop and deploy.

B. State Commissions Should Mediate Customer Contention For 811 Services

Not only should the state commissions play a role in assessing the qualifications of One Call Centers to receive 811 service, they should also be involved in mediating issues associated with customer contention in those cases where multiple Call Centers request service in the same geographic area (generally, the same wire centers). While serving multiple applicants will not always be a problem if the One Call Centers operate in distinct geographic areas (for example, California shows two One Call Centers in the above-referenced URL, one for Northern and one for Southern California), it can be a problem where there is overlapping geographic coverage (for example, Idaho shows six One Call Centers and it is not clear what the geographic scope of these different entities might be).

Carriers should have quick and easy access to the state utility commissions for a determination regarding which One Call Center is the designated center associated with the 811 dialing prefix where there are service area overlaps. Carriers should not have to establish recording menu systems to direct a caller to the “right” One Call Center, particularly since it may not be apparent to the caller which Center is the “right one.” Even though the substantive services associated with an N11 dialing pattern are not those of the carrier providing the dialing access, carriers are often blamed for problems associated with callers not receiving the kinds of

responses or aid they expect when dialing the number. For these reasons, states should have the delegated authority to resolve customer contention issues with respect to applications for three-digit toll free dialing.

III. COST RECOVERY MUST BE ASSURED. MOREOVER, 811 DIALING IS A CARRIER SERVICE AND CARRIERS SHOULD BE ABLE TO TREAT IT AS SUCH

Qwest strongly supports the *IMG Report*'s recommendation "that the cost of implementing [an N11 One Call] service not be an unfunded mandate."¹⁸ While this term is often used to describe federal mandates to states that are unaccompanied by funding to accomplish the federal objective, the same holds true for federal mandates to businesses where the businesses are expected to "eat" the costs of implementation and ongoing provisioning.

Any 811 initiative will be a federal one, as have been 211, 511 and 711 deployments. Yet, in the past, N11 deployments have not typically involved *federal* cost recovery. Carriers have been left to seek such recovery from the states where the dialing pattern deployments have been implemented.

It has been Qwest's experience that state regulatory commissions are not uniform in the way they resolve cost recovery matters associated with N11 deployments. Sometimes cost recovery itself is simply denied altogether. And if it is permitted, sometimes the state commissions limit the recovery strictly to recovery of costs with no allowance for return on investment. In short, implementing the dialing pattern at the state regulatory level is sometimes treated more as some type of fundamental local exchange carrier "obligation" associated with number resources and network architectures than as a service offered by carriers to customers who are expected to pay for it so long as they receive it.

¹⁸ *IMG Report* at 11.

In its *Order* concluding this rulemaking, the Commission should make clear that carriers have a right to cost recovery for implementing 811 dialing, at a minimum; and that states are expected to work with carriers to ensure such cost recovery, including a return on investment.

But beyond simple cost recovery, the Commission should make clear that N11 dialing is a *service* being provided by a carrier to a customer and that carriers have a right to fashion – and charge for – the service under a service delivery model. As reflected in the *IMG Report*, “the One Call Centers would be customers of the LECs providing the service and reimbursing them per service agreements after the cost of preparing the network is completed.”¹⁹ This type of cost recovery/service agreement would most likely result in carriers fashioning an 811 dialing offering with some type of nonrecurring charge to recover the network initiation and future disconnection of the service, accompanied by a monthly recurring or usage-sensitive charge.

Without clear guidance from the Commission on both the matter of cost recovery and service agreements, Qwest is concerned that it will face distracting and prolonged state proceedings dealing with the implementation of 811 dialing. The Commission should provide cost recovery guidance as part of its objective to get the 811 dialing mechanism deployed as soon as reasonably possible.

IV. CONCLUSION

Because an 811 N11 dialing pattern can be implemented for One Call Centers more quickly and with less overall expense to the telecommunications industry than can any variation of 344 dialing, the Commission should adopt the N11 dialing pattern in line with the NANC recommendation. Moreover, the Commission should delegate to the states the responsibility to determine whether an applicant for 811 service is a *bona fide* One Call Center for purposes of

¹⁹ *IMG Report* at 12.

receiving the services and the added responsibility of mediating customer contention issues regarding the assignment of 811. Finally, the Commission should make clear that carriers deploying an 811 service are entitled to cost recovery and service arrangements just as with any other service they might offer. A final Order that incorporates these elements will reflect a sound cost/benefit analysis and will be in the public interest.

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July 8, 2004

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS, INC.** to be filed with the FCC via its Electronic Comment Filing System, and served via e-mail on the FCC's duplicating contractor Qualex International.

/s/ Richard Grozier
Richard Grozier

July 8, 2004